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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/083,986	02/27/2002	Deryl T. Webster	VMC0005	6972
27187	7590	05/05/2004	EXAMINER	
BAKER & DANIELS 205 W. JEFFERSON BOULEVARD SUITE 250 SOUTH BEND, IN 46601			THOMAS, DAVID B	
			ART UNIT	PAPER NUMBER
			3723	6

DATE MAILED: 05/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/083,986

Applicant(s)

WEBSTER ET AL.

Examiner

David B. Thomas

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 March 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Leverage Opener, item 1260, submitted as prior art in the Information Disclosure Statement filed June 26, 2002, titled "Plug Wrenches", BASCO: Barrel Accessories and Supply Company, advertisement, page 1, in view of Cooper (135,084), Goldman (2,705,433), McElroy (1,222,780), or Pierre (D 142,263).

The invention as claimed in claims 1-14 is disclosed by the Leverage Opener, item 1260, except that the flange of the tool has a planar, or flat, edge rather than having a plurality of open end wrench heads, the wrench heads differing in size from one another. Either Cooper (135,084), Goldman (2,705,433), McElroy (1,222,780), or Pierre (D 142,263), respectively, disclose a double ended tool, each end of which has a driving element for turning a fastener or other intended workpiece, and each, respectively teach that it would be desirable to provide a flange, or other means, for incorporating, or combining a plurality of open end wrench heads along the main body of the tool such that the tool serves to meet a variety of applications while having the convenience of meeting those functions with one tool, rather than a plurality of tools. Therefore, it would have been obvious to one having ordinary skill in the art at the time

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the invention was made to have modified the Leverage Opener, item 1260, by providing means for including a plurality of open end wrench heads, as the combination of a double-ended tool and a plurality of open end wrench heads in one tool has been clearly suggested by either Cooper (135,084), Goldman (2,705,433), McElroy (1,222,780), or Pierre (D 142,263), respectively.

Response to Arguments

3. Applicant's arguments filed March 1, 2004 have been fully considered but they are not persuasive.

a. The prior art does not disclose a flange.

The Leverage Opener in the BASCO catalogue discloses a flange. The wrench of Cooper has a flanged portion proximal to one end, of which two open end wrenches are disposed. The wrench of Pierre is a generally flanged-type body having a plurality of open end wrench heads and a flange portion having two pins which may serve as a spanner. The wrench of McElroy has an elongate handle having a first working end W and a second flanged end E that includes a plurality of tool structures. The wrench of Cooper also includes a flanged portion B.

Regarding the issue of the flange on the Leverage Opener in the BASCO catalogue, the applicants argue that the "component", i.e. flange, on the handle of that tool is only for support due to the bend in the handle and that "removing material in order to add wrench heads would reduce the amount of strength provided by the component." However, the examiner respectfully contends that

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"removing material in order to add wrench heads" is not the only method for modification, and that the examiner has neither stated nor implied such.

- b. The prior art lacks teaching the combination of two different types of wrenches.

The Leverage Opener in the BASCO catalogue includes four structurally different wrenches. The wrench of Pierre includes four open end wrenches, two of which have square openings, which could be used for square fasteners or elements, and two of which may be used for hexagonal fasteners; a slot-type screwdriver bit or prying element; and two pins, which may serve as a spanner for a particular application. Cooper discloses a wrench which provides both open end wrench jaws and two socket wrenches. The wrench of McElroy combines a conformation 11 for use as a bottle opener, conformations 12, 13 and 14 corresponding to various size end wrenches, a conformation 15 for use as a scraper, and a conformation 16 for use as an alligator wrench. Therefore, the examiner, respectfully, contends that each of the wrenches do indeed teach combining different types of wrenches.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David B. Thomas whose telephone number is (703) 308-4250. The examiner can normally be reached on 7-4 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph J. Hail can be reached on (703) 308-2687. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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